



January 27, 2009

HOUSE BILL No. 1173

DIGEST OF HB 1173 (Updated January 14, 2009 4:39 pm - DI 101)

Citations Affected: IC 24-4.5; IC 28-8.

Synopsis: Small loans and check cashing transactions. Specifies that the limits on the finance charges that may be imposed in connection with a small loan apply to the loan's principal. Provides that the pamphlet required to be provided by a small loan lender to a borrower must, after December 31, 2009, contain information on other loans and financial products that may be available to the borrower. Provides that the pamphlet shall be prescribed by the director of the department of financial institutions (department). Requires a licensed casher of checks to submit an annual report to the department that includes certain information concerning the check cashing transactions conducted by the licensee at the licensee's Indiana locations during the previous calendar year.

Effective: July 1, 2009.

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January 12, 2009, read first time and referred to Committee on Financial Institutions.
January 26, 2009, amended, reported — Do Pass.

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HB 1173—LS 7230/DI 101+



January 27, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1173

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4.5-7-201, AS AMENDED BY P.L.217-2007,
2 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 201. (1) Finance charges on the first two hundred
4 fifty dollars (\$250) of a small loan are limited to fifteen percent (15%)
5 of the principal.
6 (2) Finance charges on the amount of a small loan greater than two
7 hundred fifty dollars (\$250) and less than or equal to four hundred
8 dollars (\$400) are limited to thirteen percent (13%) of the amount **of**
9 **the principal** over two hundred fifty dollars (\$250) and less than or
10 equal to four hundred dollars (\$400).
11 (3) Finance charges on the amount of the small loan greater than
12 four hundred dollars (\$400) and less than or equal to five hundred fifty
13 dollars (\$550) are limited to ten percent (10%) of the amount **of the**
14 **principal** over four hundred dollars (\$400) and less than or equal to
15 five hundred fifty dollars (\$550).
16 (4) The amount of five hundred fifty dollars (\$550) in subsection (3)
17 is subject to change under the provisions on adjustment of dollar

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amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

SECTION 2. IC 24-4.5-7-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 301. (1) For purposes of this section, the lender shall disclose to the borrower to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A borrower may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a borrower must inform the lender that the borrower wants to rescind the small loan, and the borrower must return the cash amount of the principal of the small loan to the lender."

(3) The statement required in subsection (2) must be in:

- (a) 14 point bold face type in the loan documents; and
- (b) not less than one (1) inch bold print in the lending area of the business location.

(4) When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet ~~approved~~ **prescribed** by the **director of the** department that describes:

- (a) the availability of debt management and credit counseling services; ~~and~~
- (b) the borrower's rights and responsibilities in the transaction; **and**

(c) in the case of a pamphlet provided under this subsection after July 1, 2009, other loans and financial products that may be available to the borrower, such as:

- (i) credit cards and seller credit cards (as defined in IC 24-4.5-1-301(19));**
- (ii) lines of credit; and**
- (iii) other alternatives to a small loan that may be available**

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1 **to the borrower at a lower cost than a small loan.**

2 SECTION 3. IC 28-8-5-18, AS AMENDED BY P.L.90-2008,
3 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2009]: Sec. 18. (a) A licensee shall keep its books, accounts,
5 and records satisfactory to the department for each transaction for at
6 least three (3) years from the transaction date.

7 (b) A licensee shall keep its books, accounts, and records separate
8 from those of any other type of business and in a manner that reflects
9 the order of the licensee's transactions.

10 (c) A person licensed or required to be licensed under this chapter
11 is subject to IC 28-1-2-30.5 with respect to any records maintained by
12 the person.

13 **(d) Not later than March 1 of each year, beginning in 2010, a**
14 **licensee shall submit an annual report to the department, on a form**
15 **prescribed by the department, that includes the following**
16 **information concerning the check cashing transactions conducted**
17 **by the licensee during the previous calendar year, expressed as a**
18 **total for all of the licensee's locations in Indiana and broken down**
19 **by location for each of the licensee's locations in Indiana:**

20 (1) The total number of check cashing transactions conducted
21 by the licensee.

22 (2) The total check cashing fees:

23 (A) imposed by the licensee; and

24 (B) collected by the licensee;

25 in connection with the licensee's check cashing transactions.

26 (3) The average face amount of the checks involved in the
27 licensee's check cashing transactions.

28 (4) The average check cashing fee imposed by the licensee in
29 connection with the licensee's check cashing transactions.

30 (5) The number of different customers involved in the
31 licensee's check cashing transactions.

32 (6) Any other information concerning the licensee's check
33 cashing transactions that the department determines is
34 relevant to the department's duties in administering and
35 enforcing this chapter.

36 A licensee shall not identify any individual customer in a report
37 required under this subsection, but shall report the required
38 information in the aggregate. The department shall treat a report,
39 or any information contained in a report, submitted under this
40 subsection as confidential and shall exercise all necessary caution
41 to avoid disclosure of the information received, except as otherwise
42 permitted or required by law.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1173, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 2 with "[EFFECTIVE JULY 1, 2009]".

Page 2, line 30, strike "approved".

Page 2, line 30, delete "or produced" and insert "**prescribed**".

Page 2, line 31, before "department" insert "**director of the**".

Page 2, line 37, delete "December 31," and insert "**July 1,**".

Page 3, delete lines 2 through 27.

Page 4, delete lines 27 through 42.

Delete page 5.

and when so amended that said bill do pass.

(Reference is to HB 1173 as introduced.)

BARDON, Chair

Committee Vote: yeas 9, nays 0.

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